

Message Text

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ACTION L-03

INFO OCT-01 AF-10 EUR-25 ISO-00 EB-11 TRSE-00 OMB-01 AID-20

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FM AMEMBASSY LONDON

TO SECSTATE WASHDC 6984

INFO AMEMBASSY ACCRA

LIMITED OFFICIAL USE LONDON 0045;

E.O. 11652: N/A

TAGS: EAID, EFIN, PFOR, IBRD, GH

SUBJECT: GHANA DEBT: DISPUTED CONTRACTS

REF: STATE 2915

1. WE HAVE QUERIED FCO ABOUT INTERPRETATION OF PART VI, PARAGRAPH IV OF CREDITORS' DRAFT AGREED MINUTE. ACCORDING TO FCO, THE TERM "IN THE ABSENCE OF SUCH PROCEDURES" TAKES COGNIZANCE OF THE FACT THAT SOME CONTRACTS EXECUTED PRIOR TO 24 FEBRUARY 1966 DID NOT FORESEE THEIR INVALIDATION THROUGH SUCH ACTION AS UNILATERAL REPUDIATION ON THE PART OF GOG, AND THEREFORE DO NOT PROVIDE FOR APPROPRIATE REMEDIAL PROCEDURES OR ARBITRATION. IN THE ABSENCE OF SUCH PROCEDURES, DISPUTES ARE TO BE RESOLVED IN ACCORDANCE WITH THE LAWS OF CONTRACTS OF ONE OR THE OTHER PARTNERS TO THE DISPUTE, OR BY AN INTERNATIONAL ARBITRATION TRIBUNAL APPLYING THE LAWS OR LEGAL PRACTICES OF THE DISPUTANTS. THE TERM "PRIVATE INTERNATIONAL LAW" REFERS, THEREFORE, TO THE PRIVATE DOMESTIC LAWS OF THE DISPUTANTS.

2. SINCE WE HAVE RAISED QUESTION ABOUT INTERPRETATION, FCO LAWYERS HAVE TAKEN CLOSER LOOK AT PARAGRAPH IN LIMITED OFFICIAL USE

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QUESTION AND HAVE COME TO CONCLUSION THAT IT COULD

INDEED BE MADE CLEARER. THEREFORE, THEY ARE DRAFTING
NEW LANGUAGE THAT WILL BE CIRCULATED TO CREDITORS AS AN
AMENDMENT IN THE NEAR FUTURE.

3. REGARDING QUESTION OF WHETHER FORMULATION HAS BEEN
DISCUSSED BILATERALLY WITH GOG, FCO ADVISES US THAT,
FOLLOWING DISCUSSIONS AMONG CREDITORS, DRAFT AGREED
MINUTE WAS PRESENTED TO GOG IN ITS ENTIRETY. AT THE
CONFERENCE ASANTE ASKED ABOUT POINT IN QUESTION AND,
ACCORDING FCO, WAS SATISFIED WITH BRIEF EXPLANATION
THAT DOMESTIC LAW WAS INDICATED BY THE TERM "PRIVATE

INTERNATIONAL LAW."

SOHM

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